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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Certiorari to the Court of Appeals
Appeal from Hampton County
Robert J. Bonds, Circuit Court Judge
Honorable Michael Nettles, Circuit Court Judge

Opinion No. 2026-UP-010 (S.C. Ct. App. filed June 28, 2024)

THE STATE,

RESPONDENT,

V.

RONALD LEE LYONS,

APPELLANT

APPELLATE CASE NO. 2022-000169

APPENDIX

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FINAL BRIEF OF APPELLANT

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STATEMENT OF ISSUE ON APPEAL

I.

Did the circuit court err in denying Appellant's motion for specific performance of a promise made by SLED agents to not obtain warrants for Appellant's arrest if he assisted them in other investigations, where the Agents were acting within the scope of their authority in making the promise?

II.

Did the sentencing judge abuse his discretion in declining to reconsider Appellant's sentence because the judge believed he could only publish the sentence but did not have the authority to alter the sentence?

STATEMENT OF THE CASE

During its March 2021 term, the Hampton County grand jury indicted Appellant for one count of distribution of fentanyl, one count of trafficking heroin four to fourteen grams, and one count of trafficking methamphetamine ten to twenty-eight grams. R. 150. On November 15, 2021, the State, represented by Rachel Janowski, called the cases to trial before the Honorable Robert Bonds and a jury. Appellant was represented by Steve Plexico. R. 1.

Prior to the start of trial, the Court held a hearing on Appellant's motion for specific performance of a plea deal. R. 1, ll. 2-10. Judge Bonds denied the motion for specific performance, and the case proceeded to trial in Appellant's absence. R. 128, ll. 14-15. Appellant was ultimately convicted as indicted, and his sentences were sealed. R. 132, ll. 1-14.

On February 3, 2022, Appellant was brought before the Honorable Michael Nettles to have his sentences unsealed. R. 136. Appellant was sentenced to three concurrent terms of fifteen-years' imprisonment. R. 139-140. Counsel Plexico motioned for the court to reduce Appellant's sentence to the mandatory minimum sentence of seven years on each indictment which was denied. R. 140-147.

This appeal follows.

ARGUMENT

I.

The circuit court erred in denying Appellant's motion for specific performance of a promise made by SLED agents to not obtain warrants for Appellant's arrest if he assisted them in other investigations, where the Agents were acting within the scope of their authority in making the promise.

Standard of Review

"In criminal cases, the appellate court sits to review errors of law only." State v. Jacobs, 393 S.C. 584, 586, 713 S.E.2d 621, 622 (2011) (citation omitted). "Appellate courts are bound by fact findings in response to motions preliminary to trial when the findings are supported by the evidence and not clearly wrong or controlled by error of law." State v. Amerson, 311 S.C. 316, 320, 428 S.E.2d 871, 873 (1993).

Relevant Facts

Prior to the start of trial, Appellant moved for specific performance of an agreement that he made with the State where, upon working for the SLED as a confidential informant, the State would not seek out warrants to prosecute him. Appellant asserted that he had "performed his duties and reasonably expected the State to perform their part of the bargain." R. 1. After jury selection, the trial court held a hearing on the motion. At the hearing, the trial court heard testimony from Appellant, Courtney Lane, Samantha Gore, Joanne Lyons, Randall Risher, and Jarrett Maffett.

Testimony of Appellant

On March 14, 2019, Appellant received a call from an individual he knew as "Hunter" asking to purchase drugs. Appellant, who had sold narcotics to "Hunter" on prior occasions, told the individual that knew he was a police officer and to come arrest him. "Hunter" was in fact

undercover SLED Agent Jarrett Maffett. With his cover blown, Maffett, along with SLED Agent Randall Risher and other members of law enforcement, met with Appellant in the woods behind his mother's home to discuss Appellant working with SLED as a confidential informant (CI). The agents told Appellant that they were targeting John Anderson, known as Big Mike, in the Hampton area. Appellant stated that he did not buy drugs from Big Mike but would help them bring in the person he did buy from in Florence, Anthony Melton, AKA "Amp." In return, the SLED agents told Appellant that they would not obtain warrants on him for the prior sales to Maffett and explicitly stated that no warrants had been taken out on him at that point in time. Appellant subsequently made several buys from Melton on behalf of SLED. R. 2, l. 6- 7, l. 16.

SLED then requested that Appellant make buys from an individual in the Hampton area known as "Mondo." Mondo was the boyfriend of a woman named Terri-Lynn who worked with Appellant's mother. Mondo was out of town, so Appellant made a buy for SELD from Terri-Lynn instead. Appellant stated that he also got the pill press being used on video for SLED, as requested. After he completed each buy, the agents would tell him he had done well and that he had made a good buy. R. 9, l. 14- 11, l. 25.

Appellant testified that when the SLED agents made the agreement with him on March 14, 2019, they did so in front of his mother, sister, and girlfriend. His mother was hysterical when SLED initially came to the house, worrying about Appellant going to jail. According to Appellant, Maffett told her that Appellant would not be charged if he worked with SLED to bring in a "big fish." R. 12, l. 18- 14, l. 12. Despite making several buys for SLED that resulted in a large quantity of narcotics being removed from the streets, SLED ultimately arrested Appellant on May 1, 2019. R. 14, ll. 13-20.

While being held in the Hampton County Detention Center, Appellant was assaulted by a family member of "Big Mike." He was blind-sided while walking to a door, knocked unconscious, and then repeatedly struck in the head. Appellant suffered intraparenchymal and subdural hemorrhages because of the attack. R. 18, l.16- 20, l. 1; R. 162. Prior to the assault, other individuals in jail called Appellant a "snitch." R. 26, ll. 10-20. From March 14, 2019, to May 1, 2019, anytime SLED called Appellant to make a buy, he did, all the while relying on the promises made to him by Maffett and the other officers that he would not go to jail or see any warrants. Relying on their assurances, he provided SLED with intelligence about drug dealings in South Carolina, made multiple drug deals in multiple counties, and purchased a large quantity of drugs each time he made a buy. R. 20, l. 16 - R. 21, l. 24; R. 28, ll. 1-6; R. 199.

On cross-examination, Appellant testified that the agents said if he cooperated that no charges would be filed, and the promises were made at his mother's house in front of his family members. He signed something to work with SLED, but admitted he never met with the solicitor's office about his work. When he asked about having an attorney, SLED told him CI work was confidential, and that was the reason they did not meet with the solicitor's office or have attorneys involved. He admitted he had overdosed two days before SLED came to him with the agreement, and he had used illegal substances during the time that he was a CI. R. 28, l. 25- 32, l. 11.

Testimony of Courtney Lane

Courtney Lane, Appellant's girlfriend, testified that she was present on March 14, 2019, when SLED Agents Maffett and Risher made the oral promise to not bring charges against

Appellant or her if they[1] cooperated with them. The agents did not tell them that warrants had already been taken out on Appellant, but they did tell them once warrants had been taken out, "there's no going back" and they would go to jail. As a result of the agreement, they went that same day to Florence to complete an undercover buy from Amp. Once Appellant had been sent to jail, Lane made buys for the SLED agents based on the agreement she believed they had made. While she was eventually charged, her cases were pled out to probationary sentences. Lane admitted to using drugs but stated she had been in drug rehabilitation for four months and was now sober. R. 35, l. 1- 43, l. 14.

Testimony of Samantha Gore

Samantha Gore, Appellant's sister, testified that she was present on March 14, 2019, when SLED Agent Maffett stated Appellant and Lane would not be going to jail and that no charges had been brought against them at that point in time. According to Gore, Maffett stated they would not go to jail if they worked for the agents to get a "big fish." She confirmed that Maffett told her mother that there were not any warrants pending for Appellant. Gore stated that both her and her mother were scared for their lives because of the undercover work Appellant had done. Her mother ultimately had to move to protect herself. R. 44, l. 21- 48, l. 5.

Testimony of Joanne Lyons

Joanne Lyons testified that she was working on March 14, 2019, when she received a call from her daughter telling her SLED agents were at her house. Lyons promptly returned home and had a conversation with Maffett. Maffett told her that if Appellant and Lane worked with them that they would not go to jail. Maffett also told her that nothing had "been put on paper" at that

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1 Both Appellant and Lane testified that any undercover work one did was supposed to benefit the other. R. 10, ll. 17-18; R. 38, ll. 20-25.

point in time. She knew that Appellant made buys for SLED because after he purchased narcotics from Tammi-Lynn, her co-worker, she no longer felt safe in Hampton and moved to Lake City, South Carolina. She reiterated that Maffett said as long they cooperated, they would not go to jail. R. 49, l. 14-R. 53, l. 13

Testimony of Randal Risher

In February of 2019, Risher was employed by SLED and was the case agent handling Appellant's cases. Risher was present when Appellant agreed to become a CI, but he claimed no promises were made to Appellant to induce him to work for SLED. Risher stated that Appellant was using narcotics while being a CI, was not reliable, and did not provide useful information to the investigation. He denied promising Appellant that he would not go to jail or that warrants would not be taken out for his arrest if he cooperated, and he stated that he does not have the authority to make such deals. R. 56, l. 13-58, l. 9.

On cross-examination, Risher claimed he could not recall if the testimony at Appellant's preliminary hearing was that he provided valuable information to the investigation. Risher was outside while Maffett was inside the home talking to Appellant about becoming a CI. However, he confirmed that Appellant was taken into the woods to discuss performing buys for SLED. Appellant did not make buys for Risher personally but did make buys for SLED. R. 58, l. 16-R. 61, l. 2.

Risher testified that law enforcement could not guarantee that a person would not go to jail, and what they told people is that if they worked with them, the officers would speak to the solicitor's office on their behalf. However, he did not speak to the solicitor's office on behalf of Appellant. Risher admitted that he held the warrants for Appellant's arrest from March 14 to May 1, 2019, despite the directive in the warrant to serve it forthwith, and during that time SLED had

Appellant making CI narcotic buys. He also conceded that law enforcement has the power to withdraw a warrant that has been issued. R. 61, l. 9- 66, l. 6.

During questioning, Risher often avoided answering defense counsel's question by stating that Appellant did not make any buys for him personally. Risher confirmed that SLED had a CI file on Appellant, and that the practice was to audio and visually record CI transactions. He also conceded that law enforcement has the discretion of whether to serve a warrant. R. 66, l. 15- 70, l. 20.

The trial court clarified that Risher was the case agent and that Appellant made buys for other SLED agents that reported directly to him. The court then requested to hear the audio from the preliminary hearing because the court found it "amazing" that Risher did not remember the testimony that Appellant provided valuable information. R. 70, l. 23- 74, l. 3. The tape[2] from the preliminary hearing was played, and Agent Maffett was heard testifying that Appellant provided valuable intelligence to SLED as a result of making the drug buys. R. (Unnumbered Ct Ex. - Preliminary hearing tape at 59 mins and 35 seconds).

Testimony of Jarrett Maffett

Maffett confirmed he was the undercover agent that worked with Appellant. He believed Appellant was under the influence at the time he agreed to be a CI because Appellant had overdosed a few days prior. Maffett asked Appellant to be a CI but claimed that he made no promises that Appellant would not go to jail or that warrants would not be taken out. He only told Appellant that they would talk to the solicitor's office about any help he provided in obtaining a

2 The tape from the preliminary hearing was moved into evidence without objection as a court's exhibit, however it was not labeled or included in the index of exhibits. The copy of the exhibit that is on file with this Court was obtained from the Hampton County Clerk of Court. R. 75, ll. 9-18

pill press. Maffett stated Appellant was not a reliable informant because he was under the influence, difficult to deal with, and did not get good video on any of the buys. He also stated Appellant failed to get the pill press. Maffett maintained he did not make an agreement with Appellant and that he did not have the authority to make an agreement with him. He also confirmed that he never spoke to the solicitor's office on Appellant's behalf. R. 79, l. 17- 84, l. 14.

On cross-examination, Maffett agreed that law enforcement had discretion over whether to serve a warrant on an individual and conceded that warrants were drawn up for Appellant on March 14, 2019, but not served on him until May 1. Maffett admitted that there were warrants drawn up on March 14, 2019, for Appellant's arrest, in case he refused to cooperate with SLED. R. 85, l. 4- 88, l. 23.

Maffett maintained that SLED's interest was in a single pill press and not the large quantity of narcotics Appellant had purchased as a CI. R. 89, l. 8- 90, l. 4. Maffett stated that when a buy is "not prosecutable" that agents do not write reports documenting the buy. Maffett admitted that the audio and visual recordings of the drug buys Appellant had made for them had been destroyed when he and his supervisor deemed the buys "non-prosecutable" and that the drugs had been put in for destruction but had not been destroyed at the time of the hearing. Maffett admitted that Amp was in prison based on a case made out by the Florence County Sheriff's Department after the buys that Appellant made on behalf of SLED. R. 93, l. 1- 94, l. 25.

Arguments by Counsel

Counsel Plexico argued that the "crux" of the motion for specific performance went to whether law enforcement had the authority to make a deal with a defendant to withhold warrants in return for cooperation. He posited that law enforcement officers are agents of the State with

prosecutorial powers, such as the ability to prosecute cases in magistrate and municipal courts, the discretion to bring charges, and the ability to determine when cases cannot be prosecuted, and thus those officers make promises and agreements that are binding on the State regarding the criminal prosecution of cases. Based on the testimony and evidence elicited during the hearing, Counsel Plexico asserted that the defense had shown there was a promise, that Appellant relied on that promise to his detriment, and that the SLED agents acted within their authority in making a binding promises not to obtain arrest warrants. R. 104-112; R. 121-123.

The State responded that there were three distinct questions before the court: 1) whether an agreement was made, 2) whether the offeror had the authority to make an agreement, and 3) whether there was detrimental reliance on the agreement. The State firmly denied that any agreement or promise had been made and argued that even if there had been a promise, the SLED agents had no authority to make any deals on behalf of the State. Further, the State contended that Appellant did not get to decide if the buys he made were good enough to show that detrimental reliance, and even though he did purchase drugs on behalf of SLED, he did not reach the ultimate goal of obtaining the pill press. Regarding the officer's testimony about not prosecuting a case, the State claimed that merely meant they made a probable cause determination. R. 112-121; 123.

Ruling by the Trial Court

The trial court began its ruling by finding the State's witnesses entirely incredible. The court stated,

> All right. Your witnesses are terrible. Your witnesses were not truthful. One of them was laughing at questions that Mr. Plexico was addressing. And while they were elementary questions, there's no need to be laughing and making googly faces.

> How disrespectful. It's disrespectful to the officers of this court. It's disrespectful to this Court.
>
> They said what they said. I have been haven't been on the bench long, but I practiced law a long time. I mean, the first gentleman was just deceitful in what he was saying, that he didn't recall. He's the lead investigator. Then to the fellow probably was your real lead investigator who was the guy who supervised all the buys wants to sit there and laugh. And then they don't want to prosecute this because they can't find a pill press. I believe you. They were after a pill press. Absolutely they were after a pill press. And he would have said anything and made any promise to get that pill press. That's what he wanted.
>
> Then he walks in and the guy doesn't do a good job because he's hooked on drugs. They knew he was hooked on drugs. They walk in there, they know it. He was in the hospital the day before. I believe the day before, or two or three day before having OD'd. And they know he's a user, and then they're upset because he's not providing the type of information that they wanted, but he does go and buy what looks to me to be dozens, and dozens, and dozens of pills but they can't prosecute it because Amp gets picked up somewhere else, they just throw this aside. I absolutely believe that they made a promise to him.

R. 123, l. 19- 125, l. 3.

The trial court determined that the testimony of the defense witnesses was consistent, and their interpretation of the statements made by SLED as an agreement was reasonable under the circumstances. R. 125, ll. 4-13. The court further determined that the SLED agents put themselves forward as having the apparent authority to make deals on behalf of the State, did in fact make a promise to Appellant not to obtain warrants for his arrest, and that Appellant relied on that promise to his detriment. R. 126, ll. 10- 127, l. 5. However, the trial court denied the motion for specific performance, stating it was bound by the language in State v. Peake, 345 S.C. 72, 545 S.E.2d 840 (2001) and Custodio v. State, 373 S.C. 4, 644 S.E.2d 36 (2007), that law enforcement does not have the authority to enter into an agreement on behalf of the State. R. 127, l. 19- 128, l. 15.

Discussion

An agreement made with a criminal defendant rest on contractual principles, and each party should receive the benefit of its bargain. However, the analysis of the agreement must be conducted at a more stringent level than a commercial contract because the rights involved are generally fundamental and constitutionally based. United States v. Ringling, 988 F. 2d 504, 506 (4th Cir. 1993). The enforcement of an agreement is subject to two conditions: 1) the agent must be authorized to make the promise; and 2) the defendant must rely to his detriment on the promise. State v. Peake at 77-78, 545 S.E.2d at 842-843. The inquiry of the court is threefold. The court must determine if a promise was made, if the defendant relied on the promise to his detriment, and whether the agent making the promise had the authority to do so.

"A defendant who seeks specifically to enforce a promise...contained in a freestanding cooperation agreement, must show ... that the promisor had actual authority to make the particular promise." United State v. Flemmi, 225 F.3d 78, 84 (1st Cir. 2000). When officers or agents are shown to have acted within the proper scope of their authority the State may be subject to estoppel. Goodwine v. Dorchester Dep't of Soc. Servs., 336 S.C. 413, 418–19, 519 S.E.2d 116, 118–19 (Ct.App.1999).

In Appellant's case, the trial court found that SLED had made a promise not to obtain arrest warrants for Appellant and that Appellant had relied on that promise to his detriment. The court denied the motion solely because it believed it was constrained by the language of Peake, which stated in a string cite that "law enforcement officers are utterly without power and authority to grant an accused immunity from arrest and prosecution for violating our criminal laws." Peake at 77-78, S.E.2d at 843 citing Yarber v. State, 375 So.2d 1212, 1227 (Ala.Crim.App.1977) *rev'd on other grounds*, 375 So.2d 1229 (Ala. 1978). Thus, the sole issue before this Court is whether the

SLED agents were acting within their authority when they promised not to obtain arrest warrants for Appellant.

Pursuant to S.C. Code Ann. § 22-5-110(B)(1) "[a]n arrest warrant may not be issued for the arrest of a person **unless sought by a law enforcement officer acting in their official capacity**." The statutory language is clear and unambiguous. See Hodges v. Rainey, 341 S.C. 79, 533 S.E.2d 578 (2000) (Under the "plain meaning rule," it is not the court's place to change the meaning of a clear and unambiguous statute; where statute's language is plain and unambiguous, and conveys a clear and definite meaning, rules of statutory interpretation are not needed, and the court has no right to impose another meaning). The authority to obtain an arrest warrant lies solely with law enforcement officers. From that authority flows the discretion to refrain from obtaining an arrest warrant. Therefore, when a law enforcement officer induces cooperation from a defendant through a promise not to obtain warrants for their arrest, the officer is acting within the proper scope of their authority.

That such a promise is within the scope of a law enforcement officers' authority is highlighted by the fact that law enforcement officers have other limited charging discretion in this state. Law enforcement officers prosecute, and decline to prosecute, cases in magistrate and municipal courts at the behest of the State. Law enforcement officers also regularly determine, without consulting with a solicitor's office, that a case cannot be prosecuted. They then proceed to dispose of evidence, body camera or other audio and visual recordings, and any narratives written about the case. Law enforcement officers regularly act with limited charging discretion in the exercising of their duties and authorities. While they may not be able to enter into an enforceable plea deal, they are certainly able to agree not to obtain arrest warrants for an individual in exchange for that person's cooperation.

The trial court ruled that the SLED officers were without authority to make a promise not to prosecute Appellant's case. However, the promise made in this case was not so broad. The promise was that the officers would not obtain arrest warrants for Appellant which was a discretionary decision within their authority to make. Based on the factual findings of the trial court and the authority of SLED to agree not to obtain warrants, Appellant was entitled to specific performance of the promise. Any warrants obtained against him from SLED should have been dismissed, and the case should not have proceeded to trial.

Lastly, even if this Court were to find that the SLED agents acted outside of their authority, fundamental fairness dictates that the promise made in this matter should be enforced. A narrow exception to the rule requiring actual authority to enter into an agreement exists when the government's noncompliance with an unauthorized promise would render a prosecution fundamentally unfair. Flemmi at 88 n.4. Admittedly, "if the fundamental-fairness exception is to truly operate as an *exception*—rather than as a nominal exception that proverbially swallows the rule—it must exclude from its ambit the mine-run (i.e., typical) case." United States v. Lilly, 810 F.3d 1205, 1216 (10th Cir. 2016).

Appellant's case is far from typical. As a direct result of the unenforced promise, Appellant was beaten while in jail and suffered a brain injury. He has permanent problems stemming from the incident. His mother was so in fear of her safety after Appellant was arrested and labeled a snitch, that she was compelled moved across the State. Additionally, SLED garnered valuable intelligence as a result of Appellant's CI work but could not use it because another agency made a case out on Amp first. Considering the sizeable quantity of drugs Appellant removed from the streets, the danger he and his family undertook in working with SLED, and the actual long lasting

physical injury he suffered, prosecution of the warrants that should never have been obtained was fundamentally unfair.

II.

The sentencing judge abused his discretion in declining to reconsider Appellant's sentence because the judge believed he could only publish the sentence but did not have the authority to alter the sentence.

Standard of Review

In criminal cases, the appellate court reviews only errors of law and is bound by the factual findings of the trial court unless the findings are clearly erroneous. State v. Bryant, 372 S.C. 305, 312, 642 S.E.2d 582, 586 (2007). The authority to change a sentence rest solely and exclusively within the discretion of the sentencing judge. State v. Smith, 276 S.C. 494, 498, 280 S.E.2d 200, 202 (1981). An abuse of discretion occurs where the conclusions of the trial court are either controlled by an error of law or lack evidentiary support. State v. Winkler, 388 S.C. 574, 583, 698 S.E.2d 596, 601 (2010).

Relevant Facts

After the trial court denied Appellant's motion for specific performance, Appellant left the courthouse and did not return to trial. The trial proceeded in his absence, and a bench warrant was issued for his arrest. R. 129, l. 2- 130, l. 13. The jury ultimately found Appellant guilty as charged. Appellant's sentence was sealed until he could be brought before the court for sentencing. R. 133, ll. 12-18.

On February 3, 2022, Appellant was brought before the Honorable Michael Nettles to have his sentence published. R. 134. Solicitor Janowski represented the State, and Appellant was represented by Counsel Plexico. R. 134. When explaining the process of unsealing his sentence,

Judge Nettles stated "Judge Bonds sentenced you, and it is my duty and responsibility to publish the verdict. I – I can't change it, that's all – that's my responsibility here today." R. 137, l.22 - 138, l. 4. Prior to publishing the sentence, Counsel Plexico informed Judge Nettles that it was his belief that he could motion the court to amend the sentence after it was published. R. 139, ll. 7-10. Judge Nettles replied his understanding was that he could not change a verdict and suggested Appellant file an appeal. R. 139, ll. 11-14. Judge Nettles then published the sentence of the court, sentencing Appellant to concurrent terms of imprisonment for fifteen years on each indictment, with credit for any time served. R. 139, l. 20- 140, l. 17.

After the sentence was published, Counsel Plexico motioned the court to reduce Appellant's sentence to the mandatory minimum seven years on each indictment. Judge Nettles replied, "I'm – I'm not at liberty to do that. I'm here simply to publish." R. 140, ll. 18-24. Judge Nettles did allow Appellant's mother to address the court even though he would not reconsider Appellant's sentence. R. 142-147. After she finished speaking Judge Nettles stated

> All right, well, those are matters that can be addressed in appeal, and, Mr. Plexico, as I've explained to you, my -- it's my understanding of the law under receiving the sentence, I -- my duty is simply to publish the verdict, but to the extent, if I could change another Circuit Court's Order, which I don't think I could, I'm not inclined to do so, that would, specifically, sustain the sentence; however, all of those matters will be -- you'll be protected for appellate purposes.

R. 147, ll. 9-20.

Discussion

In State v. Smith, 276 S.C. 494, 280 S.E.2d 200, (1981), the defendant was tried in his absence and his sentence sealed. Upon having his sentence published, the defendant moved the court to modify or vacate his sentence. The sentencing court declined, believing he did not have jurisdiction to change the sentence. On appeal, our Supreme Court held that the authority to change a sentence rests solely and exclusively in the hands of the sentencing judge within the exercising

of his discretion. Our Court reiterated that "a sealed sentence does not become the judgment of the court until it is opened and read to the defendant." Id. *citing* Lytle v. Miller, 157 S.C. 332, 154 S.E. 225 (1930). The Court emphasized that, as long as the motion to alter, amend or modify a sentence was made during the term of court at which the sentence became the judgment of the court, the sentencing judge had jurisdiction to entertain the motion within his discretion.

In remanding the matter back to the circuit court for resentencing, the Smith Court wrote

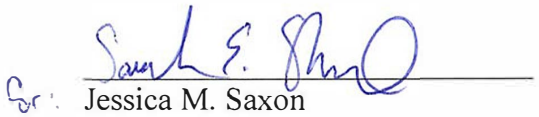
> It is apparent here the sentencing judge did not exercise any discretion but based his ruling on an erroneous view of the law. It is an equal abuse of discretion to refuse to exercise discretionary authority when it is warranted as it is to exercise the discretion improperly. We call to the attention of the bench and bar that the mere recital of the discretionary decision is not sufficient to bring into operation a determination that discretion was exercised. It should be stated on what basis the discretion was exercised.

Id. at 497–98, 280 S.E.2d at 201–02.

Appellant's case is analogous to Smith. Judge Nettles repeatedly stated that he was without authority to reconsider Appellant's sentence. However, Judge Nettles was the only individual who had the power to reconsider Appellant's sentence because, until he published the sentence, the judgment had not been entered and could not be modified. It is apparent from the record that Judge Nettles had an erroneous view of the law when he declined to entertain Appellant's motion to reconsider the sentence. Further, at the end of his ruling, Judge Nettles indicated that even *if* he had the authority to change the order of another circuit court judge, he was not inclined to do so. By making such a pronouncement, Judge Nettles refused to exercise his discretion and therefore abused his discretion. Based on the holding in Smith, Appellant respectfully requests this Court remand his case back to the Court of General Sessions for a hearing on his motion to reconsider his sentence.

CONCLUSION

Based on the foregoing arguments, Appellant respectfully requests as to Issue I that this Court find the promise enforceable and remand the matter back to the lower court to dismiss the warrants. As to Issue II, Appellant respectfully requests this Court remand the matter to the lower court for a hearing on his motion to reconsider his sentence.



Jessica M. Saxon
Appellate Defender

ATTORNEY FOR APPELLANT

This 2nd day of October, 2023.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Hampton County
Honorable Robert J. Bonds, Circuit Court Judge
Appellate Case No. 2022-000169

The State, Respondent,

vs.

Ronald Lyons, Appellant.

FINAL BRIEF OF RESPONDENT

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STATEMENT OF ISSUES ON APPEAL

I. The circuit court did not err in denying specific performance. Further, a grant of specific performance of an agreement not to obtain arrest warrants would not provide Appellant with any relief on appeal because the prosecution could still go forward without an arrest warrant once the Hampton County Grand Jury true-billed an indictment.

II. While the sentencing judge indicated he did not believe he had authority to reconsider the sentence imposed, he found even if he had the authority then he would not change the sentence. As a result, Appellant's motion was properly considered and ruled upon. Even if error, Appellant is only entitled to a remand to address his motion to reconsider sentence.

STATEMENT OF THE CASE

The State agrees with Appellant's procedural Statement of the Case.

ARGUMENT

I. The circuit court did not err in denying specific performance. Further, a grant of specific performance of an agreement not to obtain arrest warrants would not provide Appellant with any relief on appeal because the prosecution could still go forward without an arrest warrant once the Hampton County Grand Jury true-billed an indictment.

Appellant contends the trial court erred in denying his motion for specific performance and in finding the agents did not have authority to make any promises not to prosecute Appellant or to provide immunity as found by the trial court. Further, on appeal Appellant frames the issue as whether the agents had authority to promise not to obtain arrest warrants; however, even if they could promise not to obtain arrest warrants it would not prevent prosecution because the Hampton County Grand Jury issued a proper true-billed indictment and prosecution can continue without the SLED agents ever obtaining an arrest warrant. As a result, there is no relief which can be given to Appellant.

Immunity from Prosecution

Initially, the trial court ruled the SLED agents did not have authority to make a promise of immunity from arrest or prosecution. The South Carolina Supreme Court has explained:

> Under the separation of powers doctrine, which is the basis for our form of government, the Executive Branch is vested with the power to decide when and how to prosecute a case. Both the South Carolina Constitution and South Carolina case law place the unfettered discretion to prosecute solely in the prosecutor's hands. The Attorney General as the State's chief prosecutor may decide when and where to present an indictment, and may even decide whether an indictment should be sought. Prosecutors may pursue a case to trial, or they may plea bargain it down to a lesser offense, or they can simply decide not to prosecute the offense in its entirety.

State v. Thrift, 312 S.C. 282, 291–92, 440 S.E.2d 341, 346–47 (1994) (footnotes omitted). The Courts of this State have recognized the power to grant immunity from prosecution rests solely

with the prosecutors. As prosecution decisions rest solely with the Attorney General and the Solicitors, the decision to grant immunity also rests with the Attorney General and the Solicitors. See State v. Blackburn, 271 S.C. 324, 330, 247 S.E.2d 334, 338 (1978) ("The granting of immunity from prosecution is a matter within the solicitor's discretion."). In State v. Peake, this Court recognized law enforcement does not have authority to grant immunity, and it was this holding relied upon by the trial court in this case. State v. Peake, 345 S.C. 72, 77–78, 545 S.E.2d 840, 843 (Ct. App. 2001) (citing Yarber v. State, 375 So.2d 1212, 1227 (Ala.Crim.App.1977) (stating that "law enforcement officers are utterly without power and authority to grant an accused immunity from arrest and prosecution for violating our criminal laws"), rev'd on other grounds, 375 So.2d 1229 (Ala.1978); Green v. State, 857 P.2d 1197, 1199 (Alaska Ct. App. 1993) ("We base our decision to deny defendant specific performance on the fact that the police lacked the authority to make a binding promise of immunity or not to prosecute.")).

The SLED agents did not have authority to bind prosecutors to an offer of immunity for Appellant. As this Court explained: "[E]nforcement of an agreement not to prosecute is subject to two conditions: (1) the agent must be authorized to make the promise; and (2) the defendant must rely to his detriment on the promise." Peake, 345 S.C. at 77, 545 S.E.2d at 842. The circuit court clearly found Appellant relied on a promise. However, as the circuit court also found and as discussed above, the SLED agents could not bind prosecutors in any promise not to arrest or prosecute Appellant. As a result, the circuit court properly denied his motion for specific performance.

Promise Not to Seek Arrest Warrant

On appeal, Appellant frames the issue as the SLED agents promised not to seek arrest warrants. Even if the issue is framed as Appellant indicates that SLED agents could promise not

to obtain arrest warrants, Appellant can get no relief because the arrest warrants are unnecessary for prosecution to proceed.

It has long been the law of this State that a county grand jury may issue an indictment on any crime not within the exclusive jurisdiction of the magistrate court, and it may do so whether or not an arrest warrant—or even when an invalid arrest warrant—has been issued. In State v. Bowman, 43 S.C. 108, 20 S.E. 1010, 1011 (1895), the Court found grand jury proceedings may be instituted upon the motion of the solicitor without any action by a magistrate, the defendant was arrested on a bench warrant after the issuance of a true-billed indictment, and the defendant was not entitled to discharge or habeas corpus relief. In a case in which the defendant sought a directed verdict arguing prosecution could not proceed because his arrest was unlawful, the Supreme Court explained: "Even assuming that his arrest and detention without a warrant were unlawful, such would not entitle him to a directed verdict." State v. Swilling, 246 S.C. 144, 148, 142 S.E.2d 864, 866 (1965).

In another case, the defendant was originally arrested and charged with statutory rape. At the preliminary hearing, a question arose regarding the age of the victim. The parties agreed the defendant would be charged with the crime of bastardy, which was presented to the grand jury. Upon indictment, Appellant moved to quash the indictment arguing no arrest warrant had been issued for the charge of bastardy. The Supreme Court articulated: "[A] grand jury may indict for any crime, certainly any which is not within the exclusive jurisdiction of a magistrate or other inferior court, whether or not there has been a prior proceeding before a magistrate and an arrest warrant issued. . . ." State v. Walker, 232 S.C. 290, 295–96, 101 S.E.2d 826, 829 (1958). Walker's conviction was ultimately affirmed.

The case law above clearly indicates that upon a true-billed indictment, even one that occurs without any arrest warrant being issued for the crime, a defendant can be called to answer for his crimes at a trial in the Court of General Sessions. In this case, even if the SLED agents had the power to promise that they would not seek arrest warrants for Appellant, that promise would not impact a future prosecution based on a true-billed indictments for the charges. As a result, there is no relief which can be granted Appellant because the circuit court properly proceeded to trial based on the true-billed indictments in this case.

II. While the sentencing judge indicated he did not believe he had authority to reconsider the sentence imposed, he found even if he had the authority then he would not change the sentence. As a result, Appellant's motion was properly considered and ruled upon. Even if error, Appellant is only entitled to a remand to address his motion to reconsider sentence.

Appellant maintains the sentencing court abused its discretion by refusing to consider his motion to reconsider sentence made when the previously sealed sentence was read. The court did reconsider the sentence and declined to alter the sentence. If this Court finds the sentencing court did not properly reconsider the sentence, then the remedy would be to remand for consideration of the motion to reconsider and the evidence presented at the sentencing hearing on February 3, 2022.

At the sentencing hearing, the court explained Appellant's sentence was sealed by Judge Bonds after his conviction. He incorrectly[1] indicated that he could not change the sentence and that his only responsibility was to publish the sealed sentence. (2/3T. 4-5; R.137-138). Appellant's attorney indicated his belief that he could ask the sentencing court to amend or reconsider the sentence, and his attorney asked that the court sentence Appellant to the minimum sentence. Again, the circuit court incorrectly indicated he was "here simply to publish." (2/3T.7; R.140). The sentencing court did agree to hear from family members who wished to speak on the sentence. (2/3T.9; R.142). After hearing from family, as well as the various arguments of counsel regarding the nature of the crimes and the repercussions to Appellant for helping law enforcement, the sentencing court explained:

> [A]s I've explained to you, my -- it's my understanding of the law under receiving the sentence, I -- my duty is simply to publish the verdict, but to the extent, if I could change another Circuit Court's

[1] "A sealed sentence does not become the judgment of the court until it is opened and read to the defendant. . . . We hold the authority to change a sentence rests solely and exclusively in the hands of the sentencing judge within the exercise of his discretion." State v. Smith, 276 S.C. 494, 497–98, 280 S.E.2d 200, 201–02 (1981).

> Order, which I don't think I could, **I'm not inclined to do so, that would, specifically, sustain the sentence.**

(2/3T.14; R.147) (emphasis added).

While the court repeatedly stated incorrectly that it could not alter or reconsider the sentence, the sentencing court ultimately ruled on the issue. After hearing the basis for reconsideration from Appellant's counsel, Appellant's own pleas, and Appellant's family member's request, the sentencing court found it would sustain the sentence and would not change the sentence. As a result, Appellant received the consideration he sought on his motion to reconsider and there is nothing further to remand to the circuit court.

Even if this Court finds that the consideration by the sentencing court was insufficient or somehow tainted by his incorrect belief that he could not alter the sentence, the sole remedy is to remand for consideration of the motion to reconsider sentence in light of the arguments presented by counsel and the statements made by Appellant and his family members. See State v. Jackson, 290 S.C. 435, 437, 351 S.E.2d 167, 167 (1986) ("[W]e reiterate for the benefit of the trial bench our holding in State v. Smith, 276 S.C. 494, 280 S.E.2d 200 (1981), that when a sealed sentence is opened and read, the judge has the authority to consider a motion for reduction of sentence.").

CONCLUSION

For all the foregoing reasons, it is respectfully submitted that the judgment and conviction of the lower court be affirmed.

Respectfully submitted,

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Attorney General

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ATTORNEYS FOR RESPONDENT

September 15, 2023

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Hampton County
Honorable Robert J. Bonds, Circuit Court Judge
Appellate Case No. 2022-000169

The State, Respondent,

vs.

Ronald Lyons, Appellant.

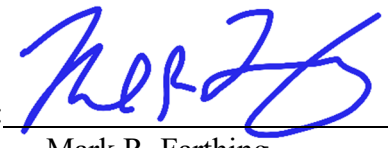
CERTIFICATE OF COUNSEL

The undersigned certifies this Final Brief of Respondent complies with Rule 211(b), SCACR, and the April 15, 2014, order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

ALAN WILSON
Attorney General

MARK R. FARTHING
Senior Assistant Deputy Attorney General

ISAAC MCDUFFIE STONE, III
Solicitor, Fourteenth Judicial Circuit

BY: 

Mark R. Farthing
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ATTORNEYS FOR RESPONDENT

September 15, 2023

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Hampton County
Honorable Robert J. Bonds, Circuit Court Judge
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The State, Respondent,

vs.

Ronald Lyons, Appellant.

PROOF OF SERVICE

I, Caroline Collins, certify that I have served the within Final Brief of Respondent on Appellant by emailing a copy to his counsel of record, Jessica M. Saxon, at her primary email address as provided by the Attorney Information System (AIS).

I further certify that all parties required by Rule to be served have been served.
This 15th day of September, 2023.

CAROLINE COLLINS
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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

The State, Respondent,

v.

Ronald Lee Lyons, Appellant.

Appellate Case No. 2022-000169

Appeal From Hampton County
Robert J. Bonds, Circuit Court Judge
Michael Nettles, Circuit Court Judge

Unpublished Opinion No. 2026-UP-010
Submitted November 3, 2025 – Filed January 14, 2026

AFFIRMED

Appellate Defender Jessica M. Saxon, of Columbia, for Appellant.

Attorney General Alan McCrory Wilson and Senior Assistant Deputy Attorney General Mark Reynolds Farthing, both of Columbia, for Respondent.

PER CURIAM: Ronald Lee Lyons appeals his convictions for distribution of fentanyl, trafficking in heroin, and trafficking in methamphetamine and concurrent sentences of fifteen years' imprisonment for each conviction. On appeal, Lyons

argues the court erred in (1) denying his motion for specific performance of a promise made by the South Carolina Law Enforcement Division (SLED) to not obtain warrants for his arrest and (2) declining to reconsider his sentence. We affirm pursuant to Rule 220(b).

1. We hold the trial court did not err in denying Lyons's motion for specific performance. *See State v. Wilson*, 345 S.C. 1, 5, 545 S.E.2d 827, 829 (2001) ("In criminal cases, the appellate court sits to review errors of law only."); *State v. Amerson*, 311 S.C. 316, 320, 428 S.E.2d 871, 873 (1993) ("Appellate courts are bound by fact findings in response to motions preliminary to trial when the findings are supported by the evidence and not clearly wrong or controlled by error of law."). To the extent Lyons argues SLED promised not to arrest him or that he would not be prosecuted, we hold the trial court did not err in finding SLED did not have the authority to enter into such an agreement because law enforcement officers do not have the authority to promise not to arrest or prosecute a defendant. *See State v. Peake*, 345 S.C. 72, 77, 545 S.E.2d 840, 842 (Ct. App. 2001) ("[E]nforcement of an agreement not to prosecute is subject to two conditions: (1) the agent must be authorized to make the promise; and (2) the defendant must rely to his detriment on the promise."); *id.* at 80, 545 S.E.2d at 844 ("[A] governmental body cannot be estopped 'by the unauthorized or erroneous conduct or statements of its officers or agents which have been relied on by a third party to his detriment.'" (quoting *S.C. Coastal Council v. Vogel*, 292 S.C. 449, 453, 357 S.E.2d 187, 189 (Ct. App. 1987))); *id.* at 78, 545 S.E.2d at 843 ("[L]aw enforcement officers are utterly without power and authority to grant an accused immunity from arrest and prosecution for violating our criminal laws." (quoting *Yarber v. State*, 375 So.2d 1212, 1227 (Ala. Crim. App. 1977), *abrogated on other grounds by Yarber v. State*, 375 So.2d 1229 (Ala. 1978))). To the extent Lyons argues solely that SLED only promised not to obtain arrest warrants for Lyons, we hold the trial court did not err in denying Lyons's motion for specific performance because an arrest warrant was not necessary for Lyons to be indicted and prosecuted; therefore, granting specific performance in this circumstance would have no practical effect. *See State v. Walker*, 232 S.C. 290, 295-96, 101 S.E.2d 826, 829 (1958) ("[A] grand jury may indict for any crime, certainly any which is not within the exclusive jurisdiction of a magistrate or other . . . court, whether or not there has been a prior proceeding before a magistrate and an arrest warrant issued . . . ."). Finally, we hold Lyons's argument that fundamental fairness should dictate that SLED's promise be enforced was not preserved for appellate review because he did not raise this argument to the trial court. *See State v. Dunbar*, 356 S.C. 138, 142, 587 S.E.2d 691, 693 (2003) ("In order for an issue to be preserved for appellate review, it must have been raised to and ruled upon by the trial [court].").

2. We hold that although the sentencing court erred in its initial determination that it could not amend Lyons's sentence, it ultimately exercised its discretion when it, after hearing from Lyons's family, indicated that to the extent it could, it was not inclined to alter Lyons's sentence and stated that his sentence was sustained. *See State v. Smith*, 276 S.C. 494, 498, 280 S.E.2d 200, 202 (1981) ("[T]he authority to change a sentence rests solely and exclusively in the hands of the sentencing judge within the exercise of his discretion."); *State v. Pittman*, 373 S.C. 527, 570, 647 S.E.2d 144, 166-67 (2007) ("An abuse of discretion occurs when the trial court's ruling is based on an error of law or, when grounded in factual conclusions, is without evidentiary support."); *Smith*, 276 S.C. at 498, 280 S.E.2d at 202 ("It is an equal abuse of discretion to refuse to exercise discretionary authority when it is warranted as it is to exercise the discretion improperly."); *State v. Jackson*, 290 S.C. 435, 437, 351 S.E.2d 167, 167 (1986) ("[W]hen a sealed sentence is opened and read, the judge has the authority to consider a motion for reduction of sentence.").

AFFIRMED.[1]

MCDONALD, HEWITT, and TURNER, JJ., concur.

[1] We decide this case without oral argument pursuant to Rule 215, SCACR.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Hampton County

Honorable Robert J. Bonds, Circuit Court Judge

Op. No. 2026-UP-010 (SC Ct. App. filed January 14, 2026)

THE STATE,

RESPONDENT,

V.

RONALD L. LYONS, JR.,

APPELLANT

APPELLATE CASE NO. 2022-000169

PETITION FOR REHEARING

On January 14, 2026, this Court affirmed the trial court's denial of Appellant's motion for specific performance, holding:

> To the extent Lyons argues SLED promised not to arrest him or that he would not be prosecuted, we hold the trial court did not err in finding SLED did not have the authority to enter into such an agreement because law enforcement officers do not have the authority to promise not to arrest or prosecute a defendant.
>
> To the extent Lyons argues solely that SLED only promised not to obtain arrest warrants for Lyons, we hold the trial court did not err in denying Lyons's motion for specific performance because an arrest warrant was not necessary for Lyons to be indicted and prosecuted; therefore, granting specific performance in this circumstance would have no practical effect.

> Finally, we hold Lyons's argument that fundamental fairness should dictate that SLED's promise be enforced was not preserved for appellate review because he did not raise this argument to the trial court.

State v. Ronald Lee Lyons, Op. No. 2026-UP-010 (SC Ct. App. filed January 14, 2026). Pursuant to Rule 221(a), SCACR, Petitioner respectfully requests this Court rehear the matter considering the significant points overlooked and/or misapprehended by this Court discussed below.

The enforcement of an agreement between a defendant and an agent of the state is subject to two conditions: 1) the agent must be authorized to make the promise; and 2) the defendant must rely to his detriment on the promise. State v. Peake 345 S.C. 72, 77-78, 545 S.E.2d 840, 842-843 (2007). The trial court ruled that the agents had made a promise not to obtain arrest warrants for Appellant, and Appellant relied on that promise to his detriment. R. 123, l. 19 – 125, l. 3. The trial court, and ultimately this Court, found itself constrained by the language of Peake and held that the SLED officers lacked the authority to make the promise. However, as the United States Court of Appeals for the Fourth Circuit decided in United States v. Bailey, 74 F.4th 151 (2023), a police officer's promise not to arrest can be enforceable against the government.

In Bailey, on August 30, 2019, North Carolina police executed a search warrant at Bailey's home during which a small bag of cocaine base was found on the floor of his bedroom. His girlfriend claimed responsibility for the narcotics. Bailey expressed an interest in helping the police in exchange for leniency for his girlfriend, and he subsequently exchanged phone numbers with an Officer Page. Roughly a month later, Page observed an individual he knew to have a

suspended license leaving the defendant's house. Page conducted a traffic stop and discovered .1 grams of cocaine base in the vehicle. Id. at 153.

After the search, Page sent a text message to Bailey asking to speak with him and returned to Bailey's home. Bailey met Page on the front porch, and the two had a discussion during which Bailey admitted to selling drugs because he was suffering financial hardship due to an inability to find employment. Page instructed Bailey to provide him with any other drugs in his possession, that it would be squared away, and he would help Bailey find employment. The two then went inside Bailey's home where Bailey produced an additional .7 grams of cocaine base. Id. at 153-54.

After that encounter, Page assisted Bailey with employment information, and Bailey assisted Page in locating and arresting someone with an outstanding warrant. Then, on November 7, 2019, Page obtained two arrest warrants for Bailey for the .1 and .7 grams of cocaine base. During a search incident to arrest of Bailey, officers discovered 17.8 grams of cocaine base in his pocket. The federal government indicted Bailey for PWID cocaine base for the 17.8 grams of cocaine found on his person during the arrest. After unsuccessfully moving to have the drugs suppressed, Bailey entered a conditional guilty plea. Id. at 154-55.

The Fourth Circuit noted that Bailey was not challenging his case under the Fourth Amendment but rather on the violation of due process that arose when Page "breached a promise not to arrest Bailey for either the .7 grams of cocaine Bailey turned over *or* the .1 grams of cocaine found [in the vehicle]." Thus, the Court looked to cases where it had considered other, analogous, promises made by the government to a defendant such as United State v. Carter, 454 F.2d 426, 427-28. (4th Cir. 1972), which dealt with an oral promise from a prosecutor where the court explained "if the promise was made to defendant as alleged and defendant relied upon it in

incriminating himself and others, the government should be held to abide by its terms." Id. at 157. After reviewing Carter, the Court wrote:

> Carter thus stands for the proposition that if the government "utilize[s] its discretion to strike bargains with potential defendants," those bargains can be enforced against the government. Carter, 454 F.2d at 428. And while Carter concerned a plea agreement, we have since recognized that a non-prosecution agreement "invokes the same constitutional due process concerns as a plea agreement." United States v. Gerant, 995 F.2d 505, 508 (4th Cir. 1993). We have also noted that, when certain conditions are met, "courts may enforce informal grants of transactional immunity." United States v. McHan, 101 F.3d 1027, 1034 (4th Cir. 1996) (citation omitted), *abrogated on other grounds by* Honeycutt v. United States, 581 U.S. 443 (2017).
>
> ...
>
> In those cases, as here, the fact that the government may have learned of a defendant's wrongdoing prior to making an agreement does not place the government's promise of leniency beyond the scope of the agreement. Quite the opposite, it is the government's knowledge of wrongdoing that so often serves as consideration for such agreements. As a result, the government's promise not to act on that knowledge cannot be deemed categorically unenforceable. So, while the proper remedy for a breached agreement will vary on a case-by-case basis, enforcement of the agreement is one remedy the district court has in its relief-fashioning arsenal.

Id., at 158 (4th Cir. 2023).

The federal government argued that any promise made by the officers was outside of the scope of their authority, and even if there was an unauthorized non-prosecution promise which was then breached, the only remedy would be suppression of any evidence obtained in detrimental reliance on the promise. The Court found this argument failed because Bailey did not allege that Page promised not to prosecute him but that Page promised not to *arrest* him – a power which undisputedly belonged to police officers. Id., at 159. The Court held:

> To be sure, Carter and its progeny do not address the precise promise Bailey alleges occurred here: *a promise not to arrest*. Yet we see no reason to treat a non-arrest agreement any differently than the non-prosecution and plea agreements we have previously held enforceable against the government. *In non-arrest agreements, as in non-prosecution and plea agreements, the government wields its vested authority to extract cooperation from a potential defendant in exchange for a promise of leniency.* A police officer is not entitled to arbitrarily breach these agreements, which have become a central feature of the many drug-related prosecutions that occupy our criminal legal system each year. *In all such contexts, therefore, where an individual fulfills his obligations under the agreement, settled notions of fundamental fairness may require the government to uphold its end of the bargain, too.* To hold otherwise would rubberstamp a police practice that stands to undermine the honor of the government and public confidence in the fair administration of justice.

Id., at 159–60 (emphasis added). The Court remanded the matter back to the lower court to determine whether the non-arrest promise was made, relied upon, and breached as Baliey alleged, and directed the court to "determine whether specific performance or other equitable relief is appropriate to remedy that breach." Id. at 160.

In South Carolina, the *only* official in the state with the power to obtain arrest warrants is a certified law enforcement officer pursuant to S.C. Code Ann. § 22-5-110(B)(1) ("[a]n arrest warrant may not be issued for the arrest of a person **unless sought by a law enforcement officer acting in their official capacity**") (emphasis added). Here, the SLED officers clearly had the authority to enter into an agreement not to arrest Appellant or gather arrest warrants for Appellant. Under the holding in Bailey, *supra*, Appellant is entitled to relief. As the circuit court held,

> [T]he evidence is that there certainly, most probably was a promise, I think that he relied upon the promise, and I think that that reliance to his detriment. I do believe that those things happened. However, I believe that law enforcement, SLED in this case, did not have the authority to enter into the agreement.

R. 243, ll. 1-9.

A cooperation agreement is analogous to a plea bargain agreement. United States v. Garcia, 519 F.2d 1343, 1345 n. 2 (9th Cir.1980). "[I]f, after having utilized its discretion to strike bargains with potential defendants, the Government seeks to avoid those arrangements by using the courts, its decision so to do will come under scrutiny." United States v. Carter, 454 F.2d 426, 428 (4th Cir. 1972) *citing* United States v. Paiva, 294 F.Supp. 742 (D.D.C.1969) at 747. "If it further appears that the defendant, to his prejudice, performed his part of the agreement while the Government did not, the indictment may be dismissed." Id.

The circuit court determined that a promise was made to Appellant, that he performed actions for the state in reliance on that promise, that the promise was breached, and that Appellant suffered harm due to his reliance on the promise. State v. Peake 345 S.C. 72, 77-78, 545 S.E.2d 840, 842-843 (2007). The only instance where the court ruled against Appellant was in finding that SLED officers lacked the authority to make that promise. However, the promise not to arrest or not to obtain arrest warrants was within the scope of the SLED agent's authority. United States v. Bailey, *supra.* SLED entered into an enforceable cooperation agreement with Appellant which was subsequently breached.

This Court held that the granting of Appellant's motion would have no practical effect because the state could indict Appellant without an arrest or arrest warrant. However, when officers or agents are shown to have acted within the proper scope of their authority the State may be subject to estoppel. Goodwine v. Dorchester Dep't of Soc. Servs., 336 S.C. 413, 418–19, 519 S.E.2d 116, 118–19 (Ct.App.1999). "The doctrine of estoppel applies if a person, by his actions, conduct, words or silence which amounts to a representation, or a concealment of material facts, causes another to alter his position to his prejudice or injury." Rushing v.

McKinney, 370 S.C. 280, 293, 633 S.E.2d 917, 924 (Ct. App. 2006) (internal citations removed). "In its broadest sense, equitable estoppel is a means of preventing a party from asserting a legal claim or defense that is contrary or inconsistent with his or her prior action or conduct." Mac Papers, Inc. v. Genesis Press, Inc., 426 S.C. 393, 403, 826 S.E.2d 874, 880 (Ct. App. 2019). Estoppel would prevent the government from seeking or prosecuting any indictments in Appellant's cause because the government was bound by the promises of the SLED agents.

Lastly, this Court held that Appellant had not preserved his argument regarding fundamental fairness for appellate review. Admittedly, nowhere in the lower court record do the words "fundamental fairness" or "due process" appear regarding the motion for specific performance. However, the case law underpinning the issue – whether an agent made a promise he was authorized to make that could be enforced against the government if relied upon to the determent of a defendant – inherently considers whether the actions of the government agent involved violated due process. See United States v. Williams, 780 F.2d 802, 803 (9th Cir.1986) (*per curiam*) (In general, a promise made by a government employee other than the United States Attorney to recommend dismissal of an indictment cannot bind the United States Attorney. An exception has been recognized where, although the United States Attorney was not a party to a cooperation agreement, breach of the agreement rendered a prosecution fundamentally unfair.); United States v. Rodman, 519 F.2d 1058, 1059–60 (1st Cir.1975) (per curiam) (upholding dismissal of an indictment where defendant gave "substantial information, including self-incriminating statements" based on an unfulfilled promise from the Securities and Exchange Commission ("SEC") to recommend non-prosecution because "the unfairness to the [defendant] warranted dismissal"). The concepts are intertwined and necessarily considered together if this Court were to determine that the SLED officers were not acting within their authority.

Appellant has shown that the SLED agent was authorized to make the promise, that the agent in fact made a promise, and that Appellant relied on that promise to his detriment. This Court should find the state is bound to the promises of its agents in this case and dismiss the indictments against Appellant.

Jessica M. Saxon
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 3rd day of February, 2026.

RECEIVED
Feb 03 2026
SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Hampton County

Honorable Robert J. Bonds, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

RONALD LYONS,

APPELLANT

APPELLATE CASE NO. 2022-000169

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Petition for Rehearing in the above-referenced case has been served upon Mark Farthing, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); and on Ronald Lyons, #310014, at McCormick Correctional Institution, 386 Redemption Way, McCormick, SC 29899, this 3rd day of February, 2026.

Jessica M. Saxon
Appellate Defender

South Carolina Commission on Indigent Defense
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PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Hampton County
Honorable Robert J. Bonds, Circuit Court Judge
Appellate Case No. 2022-000169

THE STATE,

Respondent,

vs.

RONALD LEE LYONS,

Appellant.

RETURN TO
APPELLANT'S PETITION FOR REHEARING

Toward the outset of Appellant Ronald Lee Lyons's trial on charges of trafficking in heroin, trafficking in methamphetamine, and distribution of fentanyl that stemmed from one of *several*[1] drug transactions in which Lyons sold large quantities of heroin, methamphetamine, or fentanyl to—unbeknownst to him at the time—an undercover agent from the South Carolina State Law Enforcement Division ("SLED"), Lyons sought "specific performance" of the terms of a non-arrest agreement he purportedly entered into with the agents after they disclosed their true identities to him at the conclusion of their undercover operation. (R. p. 1; p. 8; pp. 150-155).

[1] In total, the Hampton County Grand Jury indicted Lyons for five counts of trafficking in methamphetamine, three counts of trafficking in heroin, one count of distribution of fentanyl, two counts of unlawful carrying of a pistol, and one count of possession of a weapon during the commission of a violent crime. Records for Ronald Lee Lyons, Jr., Hampton County Fourteenth Judicial Circuit Public Index, https://publicindex.sccourts.org/hampton/publicindex.

However, during the ensuing hearing on the matter, the specific terms of that agreement were never clearly established. (R. pp. 2-32; pp. 35-53; pp. 56-100).

At various points in his testimony, Lyons—who conceded he never entered into a formal cooperation agreement with a solicitor—claimed he and his family were told by the agents: (1) he "wouldn't be charged *if* [he] worked for them"; (2) *if* he "cooperated," then he was "not going to jail"; (3) "*[a]s long as* [he and his girlfriend, Courtney Lane,] work and cooperate with [the agents] and do what [they] want, they will not be getting charged"; (4) he and his girlfriend "were not going to jail *as long as* [they] worked with them"; and (5) "*as long as* [they] cooperate, [no charges] will be filed." (R. p. 7; p. 9; p. 14; pp. 29-30) (emphasis added). And, Lyons asserted he did—at least in his view—do as directed by participating in several controlled buys for the agents after that. (R. p. 11; p. 14). However, Lyons further acknowledged he continuously used illegal drugs during the entirety of the time he worked for the agents, and he candidly admitted he bungled at least one of the controlled buys he was involved in by dropping the drugs on the ground outside the seller's residence when he was leaving, which required him to go back to retrieve them later. (R. pp. 11-12; pp. 31-32).

Generally consistent with what Lyons had claimed, Lane testified she was told no charges would be filed against them *if* they cooperated[2] and "part of the deal was no jail time." (R. pp. 36-37). Likewise, Samantha Gore, who was Lyons's sister, asserted the agents said Lyons and Lane would not be going to jail "*as long as* they were doing what [the agents] wanted them to do." (R. p. 46) (emphasis added). Furthermore, Joanne Lyons, who was Lyons's mother, stated the agents said Lyons and Lane were not going to jail "*as long as*" they worked with them, "d[id]

[2] Later on, Lane acknowledged her participation in the work for the agents after the agreement was reached was limited because she was deemed by them to be a "liability." (R. p. 38).

what [they] needed [Lyons] to do," and "cooperated with what [they] needed them to do." (R. pp. 52-53) (emphasis added).

Contrastingly, Lieutenant[3] Randal Risher, who was the primary case agent on Lyons's case, asserted SLED never made any promises to Lyons in exchange for his work as a confidential informant. (R. p. 57). More specifically, he affirmed they never promised Lyons he would not go to jail or warrants would not be issued if he served as an informant and made no plea agreements with him since they had no authority to do so. (R. pp. 57-58). He further indicated the only thing he could do for a cooperating suspect would be to speak on his behalf and request help from a solicitor in exchange for any assistance provided but he could not—and did not—make any guarantees. (R. pp. 61-62). Beyond that, he stated Lyons did, in fact, participate in several controlled drug transactions for SLED. (R. pp. 65-66). However, he explained Lyons was *not* a reliable informant, used illegal drugs throughout the period he was working for them, and failed to lead them to a pill press—which is what they were trying to locate through their work with him—despite his claim he could get them to it. (R. pp. 56-57; pp. 77-78).

Likewise, Agent Jarrett Maffett, the undercover SLED agent who had directly purchased the narcotics from Lyons in the earlier transactions, indicated he asked Lyons to work for them as a confidential informant after revealing the ruse to him. (R. pp. 79-80). However, in doing so, he indicated he made no promises to Lyons and, instead, only told him they would speak with a prosecutor on his behalf if he assisted them. (R. pp. 80-81). Furthermore, Agent Maffett asserted that limited offer was contingent on Lyons providing the pill press to them, which he subsequently failed to do. (R. p. 81). Beyond that, Agent Maffett stressed he never promised

[3] By the time of trial, Risher worked for the Hampton Police Department instead of SLED. (R. p. 56).

Lyons he would not go to jail, never promised no arrest warrants would be obtained or served if he worked with them, and never made any plea agreements, which he had no authority to make. (R. pp. 82-83; p. 92). Agent Maffett further explained he ultimately arrested Lyons at the beginning of May[4] of 2019 because that was the point in time they decided Lyons—who, by his own admission, accidentally dropped and left the purchased drugs on the ground during one of the controlled buys he participated in—was simply too unreliable[5] to continue working with them as an informant. (R. p. 11; p. 86; pp. 96-97).

After that testimony was presented, defense counsel maintained the agents entered into an agreement with Lyons and Lyons detrimentally relied upon that agreement. (R. pp. 107-108). Defense counsel further maintained the agreement constituted "an *implied* contract that [Lyons] would not be going to jail" and asked the trial judge to enforce that agreement based on the fact Lyons—at least in his view—had provided valuable intelligence to the agents and then suffered consequences[6] as a result. (R. pp. 108-109) (emphasis added). However, when pressed to identify authority to support his position, defense counsel alleged his argument was a "novel" one and cited not to the constitutional guarantees of due process or fundamental fairness but to

[4] Prior to that point, Agent Maffett indicated Lyons had purchased narcotics for them twice in March and once in April after Lyons began working for them on March 14, 2019, which was the date the agent revealed his true identity to Lyons. (R. p. 2; pp. 99-100).

[5] As to Lyons's unreliability, Agent Maffett indicated Lyons was under the influence of drugs "every time" he worked for them, Lyons was difficult to deal with "in all aspects," Lyons routinely complained to them, Lyons self-admittedly lied to them, and Lyons failed to obtain any good recorded footage during the limited controlled buys in which he participated. (R. pp. 81-82).

[6] As to the consequences, Lyons asserted he was assaulted in jail for being a "snitch," and his mother stated she relocated for her own safety since one of the controlled buys Lyons arranged was involved a co-worker of hers. (R. pp. 18-20; pp. 26-27; pp. 52-53).

the state constitutional provision stating the South Carolina Attorney General is the chief law enforcement officer in the state. (R. pp. 109-112).

In rebuttal, the solicitor contended the only offer made to Lyons was to discuss his cooperation if he did, in fact, cooperate and assist the agents in achieving their goal of finding the pill press. (R. pp. 112-113). Moreover, the solicitor noted the agents lacked authority to grant immunity from arrest or prosecution in South Carolina and, thus, could not validly enter into a non-arrest agreement even assuming they had done so. (R. pp. 118-119).

Upon considering those arguments, the trial judge asserted the State's witnesses were "terrible," "not truthful," and "disrespectful" based on their behavior on the witness stand. (R. pp. 123-124). The trial judge further indicated he "[a]bsolutely" believed the agents were after a pill press and—without identifying the actual terms of the purported agreement—"absolutely" believed there "certainly, most probably" was a promise made to Lyons. (R. p. 125; pp. 127-128). Beyond that, the trial judge indicated he believed Lyons detrimentally relied upon the promise since he was beaten up in jail, his mother had to move, and he faced danger to himself during the controlled buys. (R. pp. 126-128). Nevertheless, the trial judge denied the request for specific performance of the purported non-arrest agreement because the agents did not have the authority in South Carolina to enter into an agreement that would grant immunity from arrest or prosecution. (R. p. 128).

After Lyons was subsequently convicted for criminal acts that occurred *before* he ever entered any cooperation agreements with the SLED agents, Lyons appealed, arguing—in part—the trial judge erred by failing to grant his request for "specific performance" of the agreement he entered into with the SLED agents. (App. Br. pp. 1-15; p. 18). As support for that contention, Lyons maintained the agents did have authority to promise not to obtain arrest warrants and,

therefore, he "was entitled to specific performance of the promise." (App. Br. pp. 13-14). Furthermore, even if the agents acted outside the scope of their authority in his case, Lyons maintained "fundamental fairness" dictated their promise nevertheless be enforced. (App. Br. p. 14). And, even though he alleged the promise made by the agents was "not so broad" as to be construed as a promise not to prosecute, Lyons nevertheless contended it was "fundamentally unfair" for his case to have been prosecuted under the circumstances involved and asked this Court to reverse and remand for the dismissal of all the arrest warrants issued against him. (App. Br. pp. 14-15; p. 18).

Through an unpublished decision issued on January 14, 2026, this Court affirmed Lyons's convictions for trafficking in heroin, trafficking in methamphetamine, and distribution of fentanyl along with his aggregate fifteen-year sentence. State v. Lyons, Op. No. 2026-UP-010 (S.C. Ct. App. filed Jan. 14, 2026). In affirming, this Court rejected Lyons's claim the trial judge reversibly erred by denying his motion seeking specific performance of the promise made by law enforcement not to obtain warrants for his arrest for multiple reasons, including partially on the ground his newly-conceived "fundamental fairness" argument was not properly preserved for appellate review. Furthermore, this Court rejected Lyons's other argument the sentencing judge erred by declining to reconsider the sentence after it was unsealed.[7]

Now, Lyons has petitioned for rehearing solely as to the first of the issues addressed by this Court, arguing this Court should "dismiss the indictments" against him because the SLED agents were, in fact, authorized to make the promise that was made and he did, in fact, rely upon

[7] Lyons absconded shortly before the trial judge denied the motion seeking "specific performance," and, as a result, Lyons was tried in his absence and his sentence was sealed until he could be apprehended. (R. pp. 127-130; p. 133).

that promise to his detriment. (Pet. for Reh. pp. 1-8). For the reasons that follow, Lyons's petition for rehearing should be denied.

Initially, since the actual relief Lyons is seeking on appeal is the dismissal of all the indictments against him, Lyons's appellate argument—no matter how he seeks to frame it—amounts to a contention the agreement he purportedly entered into with the SLED agents should be interpreted as one granting him full immunity from prosecution for the many, many "serious"[8] crimes he committed prior to entering into it. However, just as the trial judge and this Court have already recognized, law enforcement officers in South Carolina simply do not have authority to enter into such an agreement. See State v. Peake, 345 S.C. 72, 77-78, 545 S.E.2d 840, 843 (Ct. App. 2001) (citing to multiple out-of-state authorities for the principle law enforcement officers do not have the authority to promise or grant immunity from prosecution to a criminal offender), aff'd, 353 S.C. 499, 579 S.E.2d 297 (2003); see also United States v. Flemmi, 225 F.3d 78, 85 (1st Cir. 2000) ("[A] government agent possesses express authority to bind the government if—and only if—the Constitution, a federal statute, or a duly promulgated regulation grants such authority in clear an unequivocal terms."); State v. Cox, 253 S.E.2d 517,

[8] In South Carolina, trafficking in controlled substances like heroin and methamphetamine constitutes a "serious" offense. S.C. Code Ann. § 17-25-45(C)(2)(b). Thus, based on his commission of multiple "serious" offenses during separate and distinct transactions with the undercover SLED agent, Lyons was potentially facing a mandatory sentence of life without parole for the crimes he committed. Cf. Bryant v. State, 384 S.C. 525, 533, 683 S.E.2d 280, 284 (2009) ("We find no ambiguity concerning the application of section 17-25-50 to Bryant's multiple armed robberies over several days. Bryant committed the three separate armed robberies on different days, at different locations, and the robberies involved different victims. These separate and distinct crimes over a several day period were not inextricably connected and did not share an immediate temporal proximity. Thus, Bryant's multiple armed robberies may not, as a matter of law, be considered 'one offense' under section 17–25–50."); see also State v. Boyd, 288 S.C. 206, 210, 341 S.E.2d 144, 146 (Ct. App. 1986) ("[W]here multiple convictions are obtained for violations of the Controlled Substance Act where the violations are unrelated to one another and do not arise out of a single incident that there be no prohibition of counting for sentencing purposes each conviction separately.").

521 (W. Va. 1979) ("Every court addressing this issue has held that law enforcement officers do not have authority to promise that in exchange for information, a defendant will not be prosecuted for the commission of a crime and such a promise is unenforceable as being beyond the scope of their authority."). Instead, only prosecutors have the authority in our state to grant immunity from prosecution to criminal defendants, and Lyons—by his own admission—was *not* seeking enforcement of an agreement he reached with a solicitor. See State v. Blackburn, 271 S.C. 324, 330, 247 S.E.2d 334, 338 (1978) ("The granting of immunity from prosecution is a matter within *the solicitor's* discretion." (emphasis added)); cf. State v. Reed, 879 P.2d 1000, 1002 (Wash. Ct. App. 1994) ("We hold that the promise by police to 'drop charges' exceeded their authority and that, without the involvement of the county prosecutor, such an agreement cannot be enforced as a contract. The police have no authority to make prosecutorial decisions. The county prosecutor is charged with prosecution of all criminal actions in which the state is a party. The decision whether to file criminal charges is within the prosecutor's discretion." (citations and footnote omitted)). Therefore, even assuming the SLED agents entered into a non-prosecution agreement with Lyons *and* Lyons actually upheld his end of the condititional agreement based on its terms, that agreement was not an enforceable one, and the trial judge correctly declined Lyons's motion seeking "specific performance" of it. See Peake, 345 S.C. at 77, 545 S.E.2d at 842 ("[E]nforcement of an agreement not to prosecute is subject to two conditions: (1) the agent must be authorized to make the promise; and (2) the defendant must rely to his detriment on the promise.").

Meanwhile, to the extent Lyons is contending he is entitled to "specific performance" because the promise made to him was limited to being one not to arrest him, the trial judge did not err by declining to grant such specific performance because—just as this Court aptly found—

granting such relief would have had no practical effect in Lyons's case. Critically, that is true because Lyons was not seeking release from pre-trial incarceration through his motion for "specific performance"; the "specific performance" he was seeking by the time of trial was the permanent dismissal of all the indictments against him and a determination he could never be prosecuted for the crimes he had committed. But, as this Court correctly recognized, the arrest warrants obtained in Lyons's case were not necessary for the solicitor to be able to prosecute Lyons for his litany of crimes. See State v. Walker, 232 S.C. 290, 295-296, 101 S.E.2d 826, 829 (1958) (explaining a solicitor may obtain an indictment and prosecute a case even without an arrest warrant first being issued); State v. Swilling, 246 S.C. 144, 148, 142 S.E.2d 864, 866 (1965) (explaining the unlawfulness of an arrest neither constitutes a valid ground for quashing an indictment nor precludes a criminal defendant from being tried for the charged offense), overruled on other grounds by State v. Torrence, 305 S.C. 45, 406 S.E.2d 315 (1991); see also Bordenkircher v. Hayes, 434 U.S. 357, 364 (1978) ("In our system, so long as the prosecutor has probable cause to believe that the accused committed an offense defined by statute, the decision whether or not to prosecute, and what charge to file or bring before a grand jury, generally rests entirely in his discretion." (footnote omitted)). Therefore, regardless of whether the arrest warrants obtained by the SLED agents were valid, the solicitor's prosecution of Lyons was proper and there were no legitimate grounds upon which the indictments could be quashed or dismissed.

Finally, to the extent Lyons is now contending on appeal principles of due process and fundamental fairness[9] were what entitled him to "specific performance" of his agreement with

[9] Critically, the primary authority upon which Lyons relies in his petition for rehearing—the decision of the Fourth Circuit Court of Appeals in United State v. Bailey, 74 F.4th 151 (4th Cir. 2023)—involved an analysis of an issue expressly focused on whether the defendant's

the SLED agents, that particular constitutional claim was—just as this Court recognized and as Lyons appears to concede—never presented to, considered by, or ruled upon by the trial judge and, thus, was not properly preserved for appellate review. Significantly, in South Carolina, an issue, including a constitutional one, must first be raised to and ruled upon by the trial judge before it can properly be raised or considered on appeal. See In re Care & Treatment of Corley, 365 S.C. 252, 258, 616 S.E.2d 441, 444 (Ct. App. 2005) ("Constitutional issues, like most others, must be raised to and ruled on by the trial court to be preserved for appeal."). With that basic procedural requirement in mind, defense counsel did *not* seek "specific performance" of the "implied contract" he believed the agents entered into with Lyons based on the Due Process Clause or principles of fundamental fairness at the trial level; instead, when pressed by the trial judge to identify what authority he was relying upon as support for his motion, defense counsel pointed to the state constitutional provision establishing the South Carolina Attorney General "shall be the chief prosecuting officer" in our state. See S.C. Const. art. V, § 24 ("The Attorney General shall be the chief prosecuting officer of the State with authority to supervise the prosecution of all criminal cases in courts of record."). Under such circumstances, the trial judge was never asked to consider or rule upon any constitutional claims related to due process or fundamental fairness, and, resultantly, Lyons cannot now properly raise or prevail upon such issues and arguments for the first time on appeal pursuant to the plain mandates of South

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constitutional *due process rights* had been violated. See United State v. Bailey, 74 F.4th 151, 157 (4th Cir. 2023) ("Bailey . . . does not allege a violation of his Fourth Amendment rights. Rather, he argues that his November 13 arrest violated his due process rights because, by obtaining the relevant arrest warrants, Officer Page breached a promise not to arrest Bailey for either the 0.7 grams of cocaine Bailey turned over *or* the 0.1 grams of cocaine found on Johnson.").

Carolina law.[10] See State v. Freiburger, 366 S.C. 125, 135, 620 S.E.2d 737, 742 (2005) ("The rule is well established that if asserted errors are not presented to the lower Court, the question

[10] Moreover, notwithstanding the issue preservation problems involved with Lyons's newly-conceived constitutional claim, it is not readily clear how Lyons's due process rights were violated, particularly to such an extent that principles of fundamental fairness would have warranted the extreme remedy of dismissal of his charges. Cf. State v. Peake, 353 S.C. 499, 506, 579 S.E.2d 297, 301 (2003) ("It may well have been unfair of Ms. Hunter-Shaw not to reveal the fact that she had referred the matter for criminal consideration. We nevertheless do not find that her conduct rose to a level that would cause us to question the constitutionality of petitioner's criminal prosecution."). Demonstrating that fact, Lyons—based on his own recitation of the terms of the agreement he entered into with the SLED agents—was *only* not going to be arrested for his already-committed crimes *if* and *as long as* he was cooperating and doing what the agents wanted him to do. Thus, pursuant to plain terms of that opened-ended and conditional agreement, the SLED agents were only required to refrain from arresting Lyons so long as he was doing precisely what they asked him to do, and, if he wanted to avoid being arrested for his completed crimes, Lyons had to continue doing whatever the agents asked him to do for as long as they wanted him to do so. Cf. State v. Compton, 366 S.C. 671, 677-678, 623 S.E.2d 661, 664-665 (Ct. App. 2005) ("Looking at the agreement, there is nothing to evidence an understanding between the parties that Compton could not be prosecuted for the Hanna murder. It is generally recognized that immunity agreements and plea agreements are to be construed in accordance with general contract principles. Accordingly, this court should not read terms or conditions into the contract that the parties did not intend. The court must enforce an unambiguous contract according to its terms, regardless of the contract's wisdom or folly, or the parties' failure to guard their rights carefully." (citations omitted)). However, Lyons—who routinely engaged in additional criminal behavior by using drugs while working for the agents and who was described as being unreliable by the agents for a multitude of reasons—failed to live up to those terms in the agents' view due to, amongst other things, his failure to deliver the pill press they were seeking. Under such circumstances, the agents' decision to arrest Lyons after he proved to be an unreliable informant, admittedly bungled at least one of the controlled buys, and failed to deliver what they asked him to deliver appears fully consistent with the terms of the conditional agreement Lyons claimed to have entered into, and that arrest decision certainly could not be reasonably described as one shocking to the universal sense of justice. See Kinsella v. United States ex rel. Singleton, 361 U.S. 234, 246 (1960) ("Due process cannot create or enlarge power. It has to do . . . with the denial of that fundamental fairness, shocking to the universal sense of justice." (citations, footnote, and internal quotations omitted)); cf. United States v. Russell, 411 U.S. 423, 432 (1973) ("The law enforcement conduct here stops far short of violating that fundamental fairness, shocking to the universal sense of justice, mandated by the Due Process Clause of the Fifth Amendment." (citation and internal quotations omitted)); United States v. Lilly, 810 F.3d 1205, 1217 (10th Cir. 2016) ("[H]aving thoroughly reviewed the pertinent caselaw, we must conclude that, aside from perhaps one noteworthy factor that actually does not benefit her, Ms. Lilly's case is patently mine-run. Like Ms. Lilly, the typical defendant in this setting complains that investigators made unfulfilled promises that the defendant would not be prosecuted or would receive other favorable treatment relative to potential criminal charges if the

cannot be raised for the first time on appeal."); State v. Patterson, 324 S.C. 5, 19, 482 S.E.2d 760, 767 (1997) (instructing an appellant is limited solely to the grounds raised at trial); State v. Thomason, 355 S.C. 278, 288, 584 S.E.2d 143, 148 (Ct. App. 2003) ("[A] party cannot argue one theory at trial and a different theory on appeal.").

Accordingly, for all those reasons coupled with the arguments raised in the Final Brief of Respondent, this Court should deny reject Lyons's contentions and uphold his properly-obtained convictions. Lyons's petition for rehearing should be denied.

Respectfully submitted,

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By: _____
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March 23, 2026

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defendant truthfully disclosed information regarding an investigation—including self-incriminating information—or actively assisted the investigators in efforts aimed at catching other possible criminals. Accordingly, because Ms. Lilly's case is mine-run, it is not a suitable candidate for application of the fundamental-fairness exception." (citations omitted)).

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Hampton County
Honorable Robert J. Bonds, Circuit Court Judge
Appellate Case No. 2022-000169

THE STATE,

Respondent,

vs.

RONALD LEE LYONS,

Appellant.

PROOF OF SERVICE

I, Caroline Collins, certify I have served the within Return to Appellant's Petition for Rehearing on Appellant by sending an electronic copy via email to the address listed in AIS for the following individual:

Jessica M. Saxon, Esq.
S.C. Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, SC 29211

I further certify all parties required by Rule to be served have been served.
This 23rd day of March, 2026.

CAROLINE COLLINS
Administrative Support Manger
Office of the Attorney General

The South Carolina Court of Appeals

The State, Respondent,

v.

Ronald Lee Lyons, Appellant.

Appellate Case No. 2022-000169

ORDER

After careful consideration of the petition for rehearing, the court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

Stephanie P. McDonald
_____ J.

_____ J.

_____ J.

Columbia, South Carolina

cc:
Alan McCrory Wilson, Esquire
Jessica M. Saxon, Esquire
Mark Reynolds Farthing, Esquire
The Honorable Robert J. Bonds
The Honorable Michael G. Nettles

FILED
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